



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/821,213

04/08/2004

David L. Hoyt

1600/92

9410

7590

07/24/2006

Jeffrey A. Pine  
BANIAK PINE & GANNON  
Suite 1200  
150 N. Wacker Drive  
Chicago, IL 60606-1606

EXAMINER

LAYNO, BENJAMIN

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/821,213

Applicant(s)

HOYT ET AL.

Examiner

Benjamin H. Layno

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20, 22-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's arguments filed 05/05/06 have been fully considered but they are not persuasive. The rejection follows.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 20, 22-25 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown.

The patent to Brown discloses a plurality of playing cards 12 divided into two decks. Each deck has fifty-two playing cards, see column 1, lines 5-14. Thus, there are a total of 104 playing cards. The back sides of each card may contain similar designs such that the back sides are all identical, see column 2, lines 41-43. The front side of each card contains a location indicia 11 illustrating a portion of an animal. The illustrations are located at a certain corner of each card. On card 21, which is the top left card in Fig. 1, the location indicia 11 is located on the bottom right corner, thus indicating that the card 21 is located on the top left. The front side of each card also has a quantity indicia 33 which is a number between at least two and ten, and a suit indicia 41-44 which is spade, heart, diamond, or club. When four playing cards, (which is at least two playing cards), are placed adjacent to each other, the four playing cards

form an illustration of a complete playing card four times, (which is at least twice), the size of a playing card.

In regard to the claimed steps in claim 20 a. and b., in Brown's game players subsequently draw or exchange cards to form complete pictures of the cards of a given set, thus Brown's cards are placed together. Brown's cards individually have assigned values. The object of Brown's game is to place cards together to form complete pictures of the cards of a given set. Thus, when at least two of Brown's game playing cards, having the same quantity and suit, are placed together, the value of the two playing cards are higher.

Concerning the claimed "such that the combination of said first and second playing cards is **similar** in design to a playing card in said standard deck of playing cards" in claim 21, Brown's combination of playing cards, Fig. 1 forms a complete playing card having numerical value "4" and spades suit. Numerical value and suit are found in all standard playing cards. Thus, Brown's complete playing card, Fig. 1, is broadly similar in design to a playing card in a standard deck of playing cards.

Furthermore, the only difference between indicia illustrating Brown's complete playing card, Fig. 1, and the indicia on the claimed "a playing card in a standard deck of playing cards" in claim 20, resides in the meaning and information conveyed by printed matter, and such differences are unpatentable, *Ex parte Breslow*, 192 USPQ 431.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown as applied to claim 20 above, and further in view of a standard deck of playing cards.

Brown's playing cards clearly have quantity indicia and suit indicia which are similar quantity indicia and suit indicia of a standard deck of playing cards. In view of such teaching, it would have been obvious to modify Brown's cards having numerals "11", "12", "13" by substituting for these numerals the illustrations representing Ace, Jack, Queen and King, respectively. This modification would have made Brown's playing cards more similar to a standard deck of playing cards in order to attract card players.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


Art Unit: 3711

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl